

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MAN LEWIS, JR.,

Petitioner,

v.

Case Number 07-11643-BC
Honorable Thomas L. Ludington

THOMAS K. BELL,

Respondent.

**ORDER GRANTING PETITIONER'S MOTION TO DISMISS THE 28 U.S.C. § 2254
HABEAS CORPUS ACTION WITHOUT PREJUDICE, DISMISSING THE MATTER
WITHOUT PREJUDICE, AND DENYING AS MOOT PETITIONER'S MOTION FOR
LEAVE TO AMEND OR SUPPLEMENT RECORD, PETITIONER'S
MOTION/PETITION FOR LEAVE TO FILE AN APPEAL, PETITIONER'S
APPLICATION TO PROCEED IN FORMA PAUPERIS ON APPEAL, AND
PETITIONER'S MOTION TO STAY PROCEEDINGS PENDING REVIEW OF ORDER
ON APPEAL**

Petitioner Man Lewis, a Michigan state prisoner currently confined at Boyer Road Correctional Facility in Carson City, Michigan, filed a pro se habeas corpus petition under 28 U.S.C. § 2254 on April 12, 2007. Petitioner raised eight issues for habeas review challenging the calculation of his maximum prison discharge date by the Michigan Department of Corrections and the State Parole Board. Petitioner's current maximum discharge date is August 1, 2009.

On March 18, 2008, Petitioner filed a motion for "partial voluntary dismissal," [Dkt. # 27] requesting the "dismissal" of certain pleadings. On March 19, 2008, the Court denied Petitioner's motion, along with several other motions, stating that Federal Rule of Civil Procedure 41(a)(2) only allows the dismissal of whole actions, not individual pleadings. Petitioner attempted to appeal the Court's order, however, the Sixth Circuit Court of Appeals dismissed the appeal, on the grounds that

this Court had not entered a final or appealable order. The Court of Appeals instructed Petitioner that he should file a motion in this Court to dismiss the action under Federal Rule of Civil Procedure 41(a)(2) if that is indeed what he seeks to do.

Now before the Court is Petitioner's motion to voluntarily dismiss the action pursuant to Federal Rule of Civil Procedure 41(a)(2), [Dkt. # 42] filed on November 12, 2008. Based on the foregoing, and the fact that Respondent will not be prejudiced by Petitioner's voluntary dismissal of the action, the Court will grant Petitioner's motion.

Accordingly, it is **ORDERED** that Petitioner's motion to voluntarily dismiss the 28 U.S.C. § 2254 action without prejudice [Dkt # 42] is **GRANTED**.

It is further **ORDERED** that the petition for writ of habeas corpus [Dkt. #1] is **DISMISSED WITHOUT PREJUDICE**.

It is further **ORDERED** that Petitioner's motion for leave to amend or supplement record [Dkt. # 32], Petitioner's motion/petition for leave to file an appeal [Dkt. # 35], Petitioner's application to proceed in forma pauperis on appeal [Dkt. # 37], and Petitioner's motion to stay proceeding pending review of order on appeal [Dkt. # 38] are **DENIED AS MOOT**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: November 14, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 14, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS